

derivatives clearing organization shall continue to comply with all of the provisions of this subpart until such effective date.

(3) *Additional notice requirements.* (i) A subpart C derivatives clearing organization shall provide the following notices, at the following times, to each of its clearing members and shall have rules in place requiring each of its clearing members to provide the following notices to each of the clearing member's customers:

(A) No later than the filing of a notice of its intent to rescind its election to be subject to the provisions of this subpart, written notice that it intends to file such notice with the Commission and the effective date thereof; and

(B) On the effective date of the rescission of its election to be subject to the provisions of this subpart, written notice that the rescission has become effective.

(ii) A subpart C derivatives clearing organization shall:

(A) No later than the filing of a notice of its intent to rescind its election to be subject to the provisions of this subpart, provide notice to the general public, displayed prominently on its Web site, of its intent to rescind its election to be subject to the provisions of this subpart;

(B) On and after the effective date of the rescission of its election to be subject to the provisions of this subpart, provide notice to the general public, displayed prominently on its Web site, that the rescission has become effective; and

(C) Prior to the filing of a notice of its intent to rescind its election to become subject to the provisions of this subpart, remove all references to the derivatives clearing organization's status as a subpart C derivatives clearing organization and a qualifying central counterparty on its Web site and in all other materials that it provides to its clearing members and customers, other market participants, or the general public.

(iii) The employees and representatives of a derivatives clearing organization that has filed a notice of its intent to rescind its election to be subject to the provisions of this subpart shall refrain from referring to the organization

as a subpart C derivatives clearing organization and a qualifying central counterparty on and after the date that the notice of intent to rescind the election is filed.

(4) *Effect of rescission.* The rescission of a subpart C derivatives clearing organization's election to be subject to the provisions of this subpart shall not affect the authority of the Commission concerning any activities or events occurring during the time that the derivatives clearing organization maintained its status as a subpart C derivatives clearing organization.

(f) *Loss of designation as a systemically important derivatives clearing organization.* A systemically important derivatives clearing organization whose designation of systemic importance is rescinded by the Financial Stability Oversight Council, shall immediately be deemed to be a subpart C derivatives clearing organization and shall continue to comply with the provisions of this subpart unless such derivatives clearing organization elects to rescind its status as a subpart C derivatives clearing organization in accordance with the requirements of paragraph (e) of this section.

(g) All forms and notices required by this section shall be filed electronically with the Secretary of the Commission in the format and manner specified by the Commission.

§ 39.32 Governance for systemically important derivatives clearing organizations and subpart C derivatives clearing organizations.

(a) *General rules.* (1) Each systemically important derivatives clearing organization and subpart C derivatives clearing organization shall have governance arrangements that:

(i) Are written;

(ii) Are clear and transparent;

(iii) Place a high priority on the safety and efficiency of the systemically important derivatives clearing organization or subpart C derivatives clearing organization; and

(iv) Explicitly support the stability of the broader financial system and other relevant public interest considerations of clearing members, customers of clearing members, and other relevant stakeholders.

§ 39.33

17 CFR Ch. I (4–1–14 Edition)

(2) The board of directors shall make certain that the systemically important derivatives clearing organization's or subpart C derivatives clearing organization's design, rules, overall strategy, and major decisions appropriately reflect the legitimate interests of clearing members, customers of clearing members, and other relevant stakeholders.

(3) To an extent consistent with other statutory and regulatory requirements on confidentiality and disclosure:

(i) Major decisions of the board of directors should be clearly disclosed to clearing members, other relevant stakeholders, and to the Commission; and

(ii) Major decisions of the board of directors having a broad market impact should be clearly disclosed to the public;

(b) *Governance arrangements.* Each systemically important derivatives clearing organization and subpart C derivatives clearing organization shall have governance arrangements that:

(1) Are clear and documented;

(2) To an extent consistent with other statutory and regulatory requirements on confidentiality and disclosure, are disclosed, as appropriate, to the Commission and to other relevant authorities, to clearing members and to customers of clearing members, to the owners of the systemically important derivatives clearing organization or subpart C derivatives clearing organization, and to the public;

(3) Describe the structure pursuant to which the board of directors, committees, and management operate;

(4) Include clear and direct lines of responsibility and accountability;

(5) Clearly specify the roles and responsibilities of the board of directors and its committees, including the establishment of a clear and documented risk management framework;

(6) Clearly specify the roles and responsibilities of management;

(7) Describe procedures for identifying, addressing, and managing conflicts of interest involving members of the board of directors;

(8) Describe procedures pursuant to which the board of directors oversees the chief risk officer, risk management

committee, and material risk decisions;

(9) Assign responsibility and accountability for risk decisions, including in crises and emergencies; and

(10) Assign responsibility for implementing the:

(i) Default rules and procedures required by §§ 39.16 and 39.35;

(ii) System safeguard rules and procedures required by §§ 39.18 and 39.34; and

(iii) Recovery and wind-down plans required by § 39.39.

(c) *Fitness standards for board of directors and management.* Each systemically important derivatives clearing organization and subpart C derivatives clearing organization shall maintain policies to make certain that:

(1) The board of directors consists of suitable individuals having appropriate skills and incentives;

(2) The board of directors includes individuals who are not executives, officers or employees of the systemically important derivatives clearing organization or subpart C derivatives clearing organization or an affiliate thereof;

(3) The performance of the board of directors and the performance of individual directors are reviewed on a regular basis;

(4) Managers have the appropriate experience, skills, and integrity necessary to discharge operational and risk management responsibilities; and

(5) Risk management and internal control personnel have sufficient independence, authority, resources, and access to the board of directors so that the operations of the systemically important derivatives clearing organization or subpart C derivatives clearing organization are consistent with the risk management framework established by the board of directors.

§ 39.33 Financial resources requirements for systemically important derivatives clearing organizations and subpart C derivatives clearing organizations.

(a) *General rule.* (1) Notwithstanding the requirements of § 39.11(a)(1), each systemically important derivatives clearing organization and subpart C derivatives clearing organization that, in either case, is systemically important in multiple jurisdictions or is involved